

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**HENRY ROBINSON, JR.**

**PLAINTIFF**

**V.**

**CAUSE NO.** 3:19-cv-264-HTW-LRA

**HOLMES COUNTY CONSOLIDATED SCHOOL DISTRICT**

**DEFENDANT**

**NOTICE OF REMOVAL**

**COMES NOW** Defendant Holmes County Consolidated School District, by and through counsel of record, and files its *Notice of Removal* of this action from the Chancery Court of Holmes County, Mississippi, to the United States District Court for the Southern District of Mississippi, Northern Division, and, in support thereof, would show as follows:

**I. BACKGROUND**

1. Plaintiff Henry Robinson, Jr. commenced this action on March 22, 2019, by filing his *Appeal Petition* in the Chancery Court of Holmes County, Mississippi, which was assigned Case No. 19-0041 and styled “Henry Robinson, Jr. vs. Holmes County Consolidated School District.” Defendant Holmes County Consolidated School District (hereinafter “HCCSD”) received notice of this action by way of email sent to its Board Attorney, Ben Piazza, by Plaintiff’s counsel on March 26, 2019.

2. In the *Appeal Petition*, Plaintiff alleges that (1) HCCSD failed to advise him of his right to take leave pursuant to the Family and Medical Leave Act (hereinafter “FMLA”),<sup>1</sup> thus violating his FMLA rights and leading to his discharge by HCCSD, (2) HCCSD committed an error under FMLA regulations in terminating him for the late return of his FMLA certification forms, and (3) HCCSD violated his FMLA rights by discharging him rather than counting the

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<sup>1</sup> 29 U.S.C. §§2601 *et seq.* and 29 C.F.R. §§825.100 *et seq.*

days where certification was not returned as leave not covered by FMLA. It is without a doubt that all of Plaintiff's allegations are based upon alleged violations of the FMLA.

3. Based on these allegations, Plaintiff requests that an ordered be entered with the following provisions: (1) that HCCSD's decision to uphold Plaintiff's termination be reversed, (2) that HCCSD be found to have wrongfully violated Plaintiff's FMLA rights, (3) that HCCSD wrongfully terminated Plaintiff, and (4) that HCCSD be ordered to reinstate Plaintiff to his previous job position and pay him all lost back pay and benefits.

## **II. GROUNDS FOR REMOVAL**

4. As provided in 28 U.S.C. §1331, "[t]he district courts shall have original jurisdiction of all civil actions arising under the ... laws ... of the United States."

5. This action involves and is based upon a federal question because Plaintiff asserts claims pursuant to alleged violations of the FMLA.

## **III. DATE LAWSUIT FILED**

6. On March 22, 2019, Plaintiff filed his *Appeal Petition* in this civil action in the Chancery Court for Holmes County, Mississippi.

## **IV. DATE LAWSUIT SERVED**

7. Plaintiff alleges that his counsel served process in this civil action on HCCSD on March 26, 2019 by way of email to its Board Attorney, Ben Piazza, and by way of the Mississippi Electronic Courts filing system.

8. Such alleged service was not sufficient or proper, defenses HCCSD will further pursue upon this civil action's removal. However, HCCSD asserts that it was not served with this lawsuit more than thirty (30) days before the filing of this *Notice of Removal*.

**V. COPIES OF PROCESS, PLEADINGS, AND ORDERS**

9. Pursuant to 28 U.S.C. §1446(a) and L.U.Civ.R. 5(b), true and correct copies of all process, pleadings, and orders served on or by HCCSD and a copy of the entire state court record shall be electronically filed by HCCSD within fourteen (14) days of the filing of this *Notice of Removal*.

**VI. REMOVAL IS TIMELY**

10. Pursuant to 28 U.S.C. §1446(b), this *Notice of Removal* is timely because it is filed with this Court within thirty (30) days after the receipt by HCCSD of Plaintiff's *Appeal Petition*.

**VII. VENUE IS PROPER**

11. Pursuant to 28 U.S.C. §1446(a), the United States District Court for the Southern District of Mississippi, Northern Division, is the district in which the state court action was filed. *See* 28 U.S.C. §104(b)(1).

**VIII. NOTICE OF FILING TO STATE COURT AND ADVERSE PARTY**

12. Pursuant to 28 U.S.C. §1446(d), HCCSD is promptly filing this *Notice of Removal* with the Clerk of the Chancery Court of Holmes County, Mississippi and giving written notice thereof to all adverse parties, specifically, Plaintiff Henry Robinson, Jr.

**WHEREFORE PREMISES CONSIDERED**, Defendant Holmes County Consolidated School District respectfully requests that this *Notice of Removal* be filed, that Cause No. 19-0041 in the Chancery Court of Holmes County, Mississippi be removed to and proceed in this Court, and that no further proceedings be had in Cause No. 19-0041 in the Chancery Court of Holmes County, Mississippi.

**RESPECTEFULLY SUBMITTED**, this the 16<sup>th</sup> day of April, 2019.

**HOLMES COUNTY CONSOLIDATED  
SCHOOL DISTRICT,  
DEFENDANT**

/s/ Benjamin E. Griffith

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**CERTIFICATE OF SERVICE**

I, Benjamin E. Griffith, counsel for Defendant Holmes County Consolidated School District in the above cause, do hereby certify that I have this day caused a true and correct copy of the above and foregoing *Notice of Removal* to be delivered by electronic mail and U.S. Mail, postage prepaid, to:

Preston Rideout, Esq.  
203 Walthall Street  
Greenwood, MS 38930-4428  
[bo@borideout.com](mailto:bo@borideout.com)  
*Attorney for Plaintiff*

**DATED** this the 16<sup>th</sup> day of April, 2019.

/s/ Benjamin E. Griffith  
Benjamin E. Griffith